



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,156	05/05/2005	Jeffrey Earl Telschow	ACA 6284PIUS	1415

27624 7590 06/17/2009
AKZO NOBEL INC.
LEGAL & IP
120 WHITE PLAINS ROAD, SUITE 300
TARRYTOWN, NY 10591

EXAMINER

LOEWE, SUN JAE Y

ART UNIT	PAPER NUMBER
----------	--------------

1626

MAIL DATE	DELIVERY MODE
-----------	---------------

06/17/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/534,156	Applicant(s) TELSCHOW, JEFFREY EARL	
	Examiner SUN JAE Y. LOEWE	Art Unit 1626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-20 are pending in the instant application. The office action dated December 11, 2008 is vacated.

Response to Arguments

2. Applicant's arguments have been considered, however, they are not found to be persuasive. See responses below.

Applicant

submits that one of ordinary skill in the art would understand what the term "substantially free from said amide impurities" means. In addition, the specification provides general guidance as to the meaning of the term, such as through the nonlimiting example in which the amide wt% before treatment was 0.19, but after treatment was <0.02 (undetectable).

It is maintained that one of ordinary skill would not understand what the scope of the instant invention is. For example, the cited prior art (US 4,575,434) discloses a process for removal of amide impurities from solution of amide and nitrile which results in 0.06-.23% amide. Absent a specific standard/definition in the specification, one of ordinary skill would not be advised as to which of the prior art processes are within the scope of the instant claims.

It is basic chemistry that a "nitrile" is an organic compound having molecular structures in which a cyano group ($-C \equiv N$) is attached to a carbon atom (C). Accordingly, the term "fatty acid-derived nitrile" is directed to a nitrile derived from a fatty acid. The specification itself states, "[f]atty nitriles, those derived from fatty acids" (Specification, page 1, line 7). Further, exemplary nitrile feedstocks of primary interest in the present invention can fall into one of three types, such as "coco-nitrile", "tallow-nitrile" and "oleo-nitrile". (See specification, page 4, lines 4-5).

It is maintained that one of ordinary skill would not understand the scope of the instant claims. Applicant's response regarding the definition of "nitrile" is noted. However, the instant claims add the further limitation "fatty acid-derived" without a specific delineation of structure. One of ordinary skill is not apprised of the scope of the instant claims. It is not understood what the structural delineation is for "fatty acid-derived nitrile."

As set forth in the Report, "D2 [i.e. Frank] differs from the present application in that in the former [i.e. in Frank], no acid layer is formed and therefore, of course, an acid layer is not separated from said solution."

Applicant's arguments are noted. The examination proceeds independent of the opinion issued in the International Preliminary Examination Report. The reference does teach the formation of an acid layer (see office action dated June 9, 2008 pg.3 and US 4,575,434 column 3, 4th paragraph) and subsequent separation of from the nitrile (eg. see US 4,575,434 Example I).

Claims 8, 9 and 20 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Frank. Applicant submits that claims 8, 9 and 20 are patentable over the Frank for at least the reasons that claims 1 and 15, from which they respectively depend, are patentable, but may be separately patentable for additional reasons as well. Claims 1 and 15 remain rejected.

Conclusion

3. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SUN JAE Y. LOEWE whose telephone number is (571)272-9074. The examiner can normally be reached on M-F 7:30-5:00 Est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph McKane can be reached on (571)272-0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Golam M. M. Shameem/
Primary Examiner, Art Unit 1626

/Sun Jae Y. Loewe/
6-13-2009